



DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[190225160-9160-01]

RIN 0691-AA88

International Services Surveys: BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations of the Department of Commerce's Bureau of Economic Analysis (BEA) to renew reporting requirements for the mandatory BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons. This survey will apply to the 2018 calendar reporting year. This mandatory benchmark survey, conducted under the authority of the International Investment and Trade in Services Survey Act, covers the universe of transactions in insurance services and is BEA's most comprehensive survey of such transactions. For the 2018 benchmark survey, BEA proposes several changes in the data items collected and the design of the survey form.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before 5:00 p.m. [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You can submit comments, identified by RIN 0691-AA88, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. For Keyword or ID, enter "EAB-2018-0001."

- *E-mail:* christopher.stein@bea.gov
- *Fax:* Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, (301) 278-9507.
- *Mail:* Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, 4600 Silver Hill Rd., Washington, DC 20233.
- *Hand Delivery/Courier:* Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, 4600 Silver Hill Rd., Suitland, MD 20746.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent to both BEA through any of the methods above and to the Office of Management and Budget (OMB), OIRA, Paperwork Reduction Project 0608-0073, Attention PRA Desk Officer for BEA, via e-mail at Robert_G_Sivinski@omb.eop.gov, or by fax at 202-395-7245.

Public Inspection: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. BEA will accept anonymous comments (enter N/A in required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department

of Commerce, 4600 Silver Hill Rd., Washington, DC 20233; e-mail *christopher.stein@bea.gov* or phone (301) 278-9189.

SUPPLEMENTARY INFORMATION: The BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons is a mandatory survey and is conducted once every five years by BEA under the authority provided by the International Investment and Trade in Services Survey Act (P.L.94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended), hereinafter, “the Act.” The Act provides that data reported to BEA on this survey are confidential and may be used only for analytical and statistical purposes. Without prior written permission from the survey respondent, the data collected cannot be presented in a manner that allows individual responses to be identified. An individual respondent’s report cannot be used for purposes of taxation, investigation, or regulation. Copies retained by BEA are exempt from legal process. Per the Cybersecurity Enhancement Act of 2015, a respondent’s data are protected from Cybersecurity risks through security monitoring of the BEA information systems.

A response is required from persons subject to the reporting requirements of the BE-140, whether or not they are contacted by BEA, to ensure complete coverage of transactions in insurance services between U.S. persons (any individual or organization subject to the jurisdiction of the United States) and foreign persons.

In 2012, BEA established regulatory guidelines for collecting data on international trade in services and direct investment (77 FR 24373; April 24, 2012). This proposed rule, conducted pursuant to the Act, would amend regulations to require a response from persons subject to the reporting requirements of the BE-140, whether or not they are contacted by BEA.

The benchmark survey is intended to cover the universe of insurance transactions of U.S. insurance companies with foreign persons and is BEA’s most comprehensive survey of such

transactions. In nonbenchmark years, the universe estimates covering these transactions are derived from the sample data reported on BEA's BE-45 Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons. The BE-45 and the BE-140 collect similar information. BEA uses cutoff sampling for the BE-45, meaning that respondents must only report on the BE-45 if they have transactions that exceeded \$8 million in any one of the eight covered insurance transaction categories. The sample of reporters that file on a quarterly basis throughout calendar year 2018 will also be required to report on the 2018 BE-140 survey. BEA reconciles the annual data from the BE-140 survey with the quarterly data reported on the BE-45 survey, by comparing quarterly to annual submissions that are typically completed using audited information.

The benchmark data, which includes data from respondents not subject to filing on an ongoing quarterly basis, will be used, in conjunction with quarterly data collected on the companion BE-45 survey, to produce estimates of insurance transactions for BEA's international transactions accounts (ITAs), national income and product accounts, and industry accounts. If this information was not collected on the BE-140 survey, BEA would need to expand the scope of the BE-45 quarterly survey by collecting additional data items and reducing reporting thresholds, resulting in an increased number of respondents and a measurable impact on the reporting burden each quarter. The data collected through the BE-140 are needed to monitor U.S. trade in insurance services, to analyze the impact on the U.S. economy and on foreign economies, to compile and improve the U.S. economic accounts, to support U.S. commercial policy on trade in services, to conduct trade promotion, and to improve the ability of U.S. businesses to identify and evaluate market opportunities.

A full list of the insurance transactions covered by the BE-140 survey can be found in the regulatory text for new § 801.12 at the end of this document.

This proposed rule would amend 15 CFR part 801 by adding new § 801.12 to set forth the reporting requirements for the BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons.

Description of Changes

The proposed changes would amend the regulations and the survey form for the BE-140 benchmark survey. These amendments include several changes in data items collected and the design of the survey form relative to the 2013 benchmark survey.

BEA proposes adding two items and modify two items on the benchmark survey form. The modifications are proposed in response to suggestions from data users and would allow BEA to more closely align with international guidelines and publish more information on U.S. trade in insurance services.

The following items would be added to the benchmark survey:

- (1) **Mandatory questions to request additional information from respondents that have direct insurance sales and/or losses.** Additional questions, applicable to reporters of direct insurance transactions on Schedule B of the survey, would be added to request an estimate of what percentage of these transactions were: 1) life insurance, 2) freight insurance, and 3) other direct insurance. To avoid imposing undue reporter burden, the estimates would be requested based on the reporter's knowledge of the U.S. operations, and would not be required to be sourced from company records at an individual transaction level.
- (2) **A new schedule to collect information related to catastrophic losses from hurricanes and other significant natural disasters.** The 2018 BE-140 survey would collect information from reporters for a sample of up to 5 catastrophic events that took place during 2018. Catastrophic events would include events such as hurricanes, earthquakes,

and wildfires, etc. The new schedule would be structured to collect data on the loss amount, type of loss (assumed or ceded), the country of the foreign counterparty, the relationship to the foreign counterparty (foreign affiliate, foreign parent group, or unaffiliated), and the date for each event/transaction.

In addition, BEA proposes to make the following two modifications to items collected on the previous BE-140 survey form:

- (1) **Lowering the threshold for reporting large, infrequent reinsurance transactions.** On the 2013 BE-140 benchmark survey, the threshold for reporting these transactions was \$1 billion. For the 2018 BE-140 benchmark survey, in order to collect more comprehensive information, a lower threshold of \$250 million will be used. In addition, reporters will be required to indicate if the transactions either included a transfer of reserves or were related to a catastrophic event, for up to 10 transactions.
- (2) **Modifying mandatory Schedule C to collect additional information regarding the expected average maturity of reserves that are transferred and included in the premiums reported on the survey.** Information about reserve transfers would be collected for the large, infrequent reinsurance transactions collected at the proposed threshold of \$250 million (proposed modification (1) above). Reporters of such transactions would be required to provide additional information about those transactions that included a transfer of reserves at the inception of new reinsurance contracts, or for the recapture or termination of reinsurance contracts. The proposed schedule would request information about the type of premium/loss (either assumed or ceded), the country of the foreign counterparty, the relationship to the foreign counterparty (foreign affiliate, foreign parent group, or unaffiliated), the expected average maturity of the reserves, the reserve amount, and the date of the transaction. A text field will also be

provided to allow the respondent to include additional details about each transaction.

BEA proposes to redesign the format and wording of the survey. The new survey design would incorporate improvements that have been made to other BEA surveys. Some enhancements are the result of a recent cognitive review conducted with selected survey respondents during the planning for the 2017 BE-120 Benchmark Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons. Survey instructions and data item descriptions would be changed to improve clarity and ensure the benchmark survey form is consistent with other BEA surveys.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520 (PRA). The requirement will be submitted to OMB for approval as a reinstatement, with change, of a previously approved collection under OMB control number 0608-0073 for which approval has expired. Surveys were collected for the 2013 BE-140 in calendar years 2014 and 2015. No survey submissions were solicited by BEA after the expiration and discontinuance of the collection in February of 2017.

Notwithstanding any other provisions of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection displays a currently valid OMB control

number.

The BE-140 survey, as proposed, is expected to result in the filing of reports from approximately 1,300 respondents. Approximately 1,000 respondents would report mandatory data on the survey, and approximately 300 would file exemption claims. The respondent burden for this collection of information would vary from one respondent to another, but is estimated to average (1) 9 hours for the 600 respondents that file mandatory or voluntary data by country and affiliation for relevant transaction types on the mandatory schedules; (2) 2 hours for the 400 respondents that file mandatory data by transaction type but not by country or affiliation; and (3) 1 hour for other responses. These burden-hour estimates consider time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden for this survey is estimated at 6,500 hours, or 5 hours per response (6,500 hours/1,300 respondents), compared to 4,689 hours, or about 4.5 hours per response (4,689 hours /1,042 respondents) for the previous BE-140 benchmark survey in 2013. The increase in burden hours is due to an estimated increase in the size of the respondent universe from 2013 to 2018, as well as changes to the content of the survey.

As part of its continuing effort to reduce paperwork and respondent burden, the Department of Commerce invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the PRA. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other

forms of information technology.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent to both BEA and OMB following the instructions given in the ADDRESSES section above.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. The changes proposed in this rule are discussed in the preamble and are not repeated here.

A BE-140 report would be required of any U.S. insurance company that had insurance transactions with foreign persons in any of the types of transactions listed in the regulatory text for new § 801.12 at the end of this document. While the survey would not collect data on total sales or other measures of the overall size of the respondents to the survey, historically the respondents to the existing quarterly survey of insurance transactions and to the previous benchmark surveys were major U.S. insurance corporations. A completed benchmark survey, as proposed, would be required from U.S. insurance companies who had insurance transactions in any of the covered categories with foreign persons. For U.S. insurance companies who have transactions that exceeded \$2 million in at least one of the insurance services covered by the survey for calendar year 2018, a completed benchmark survey would include data on each of the covered types of insurance transactions with totals disaggregated by country and by relationship to the foreign counterparty (foreign affiliate, foreign parent group, or unaffiliated). For U.S. insurance companies that had transactions below \$2 million in each of the insurance services covered by the survey for calendar year 2018, a completed benchmark would include totals for

each type of transaction in which they engaged. This below \$2 million exemption level would exclude most small businesses from mandatory reporting of detail by country and by affiliation. Any small businesses that are required to report would likely have engaged in a small number of covered transactions and are therefore expected to be below the expected average burden of 5 hours per response. Even if the responses for small businesses took the expected average burden of 5 hours per response, that would not constitute a significant impact on any small business or other entity. Because this rule would not have a significant impact on any small entities, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

List of Subjects in 15 CFR Part 801

Economic statistics, Foreign trade, International transactions, Penalties, Reporting and recordkeeping requirements.

Dated: March 15, 2019.

Paul W. Farelo,

Associate Director of International Economics,

Bureau of Economic Analysis.

For reasons set forth in the preamble, BEA proposes to amend 15 CFR part 801 as follows:

**PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S.
AND FOREIGN PERSONS AND SURVEYS OF DIRECT INVESTMENT**

1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp. p. 173); and E.O. 12518 (3 CFR, 1985 Comp. p. 348).

2. Revise § 801.3 to read as follows:

§ 801.3 Reporting requirements.

Except for surveys subject to rulemaking in §§ 801.7, 801.8, 801.9, 801.10, 801.11, and 801.12 reporting requirements for all other surveys conducted by the Bureau of Economic Analysis shall be as follows:

(a) Notice of specific reporting requirements, including who is required to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be published by the Director of the Bureau of Economic Analysis in the FEDERAL REGISTER prior to the implementation of a survey;

(b) In accordance with section 3104(b)(2) of title 22 of the United States Code, persons notified of these surveys and subject to the jurisdiction of the United States shall furnish, under oath, any report containing information which is determined to be necessary to carry out the surveys and studies provided for by the Act; and

(c) Persons not notified in writing of their filing obligation by the Bureau of Economic Analysis are not required to complete the survey.

3. Add § 801.12 to read as follows:

§801.12 Rules and regulations for the BE-140 Benchmark Survey of Insurance

Transactions by U.S. Insurance Companies with Foreign Persons – 2018.

The BE-140 Benchmark Survey of Insurance Transactions by Insurance Companies with Foreign Persons will be conducted covering calendar year 2018. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.2 and §§ 801.4 through 801.6 are applicable to this survey. Specific additional rules and regulations for the BE-140 survey are given in paragraphs (a) through (e) of this section. More detailed instructions are given on the report form and in instructions accompanying the report form.

(a) *Response required.* A response is required from U.S. insurance companies subject to the reporting requirements of the BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons – 2018, contained herein, whether or not they are contacted by BEA. Also, a U.S. insurance company, or its agent, that is contacted by BEA about reporting on this survey, either by sending a report form or by written inquiry, must respond in writing pursuant to this section. This may be accomplished by:

- (1) Completing and returning the BE-140 by the due date of the survey; or
- (2) If exempt, by completing the determination of reporting status section of the BE-140 survey and returning it to BEA by the due date of the survey.

(b) *Who must report.* A BE-140 report is required of each U.S. insurance company that had insurance transactions with foreign persons in the categories covered by the survey during its 2018 calendar year.

(c) *What must be reported.* (1) A U.S. insurance company that had transactions with foreign persons that exceeded \$2 million in at least one of the insurance categories covered by the survey during its 2018 calendar year, on an accrual basis, is required to provide data

on the total transactions of each of the covered types of insurance transactions and must disaggregate the totals by country and by relationship to the foreign counterparty (foreign affiliate, foreign parent group, or unaffiliated). The determination of whether a U.S. insurance company is subject to this reporting requirement may be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(2) A U.S. insurance company that had transactions with foreign persons that were \$2 million or less in each of the insurance categories covered by the survey during its 2018 calendar year, on an accrual basis, is required to provide the total for each type of transaction in which they engaged.

(i) *Voluntary reporting of insurance transactions.* If, during calendar year 2018, total transactions were \$2 million or less in each of the insurance categories covered by the survey, on an accrual basis, the U.S. insurance company may, in addition to providing the required total for each type of transaction, voluntarily report transactions at a country and affiliation level of detail on the applicable mandatory schedule(s).

(ii) [Reserved].

(3) *Exemption claims.* Any U.S. person that receives the BE-140 survey form from BEA, but is not subject to the reporting requirements, must file an exemption claim by completing the determination of reporting status section of the BE-140 survey and returning it to BEA by the due date of the survey. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary follow-up contact.

(d) *Covered types of insurance services.* Insurance services covered by the BE-140 survey consist of transactions between U.S. insurance companies and foreign persons for:

- (1) Premiums earned on reinsurance assumed from companies resident abroad;
- (2) Losses incurred on reinsurance assumed from companies resident abroad;
- (3) Premiums paid for reinsurance ceded to companies resident abroad;
- (4) Losses recovered on reinsurance ceded to companies resident abroad;
- (5) Premiums earned from direct insurance sold to foreign persons;
- (6) Losses incurred on direct insurance sold to foreign persons;
- (7) Receipts for auxiliary insurance services provided to foreign persons; and
- (8) Payments for auxiliary insurance services provided by foreign persons.

(e) *Types of transactions excluded from the scope of this survey* – Premiums paid to, or losses received from, foreign insurance companies on direct insurance.

(f) *Due date.* A fully completed and certified BE-140 report, or qualifying exemption claim with the determination of reporting status section completed, is due to be filed with BEA not later than July 31, 2019 (or by August 31, 2019 for respondents that use BEA's eFile system).

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